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ABSTRACT

This manual outlines the policies and procedures related to the submission and review of facilities projects at South Carolina's public colleges and universities. It provides an overview of the South Carolina Commission on Higher Education's role and responsibilities and its general policy regarding permanent improvements to facilities. The report then provides definitions and policy requirements for permanent improvement programs, interim permanent improvement project approval, emergency requests, leases, acquisition of facilities by private foundations, routine repair and replacement issues, project requests, and schedules. The manual also reviews facilities policies related to the South Carolina Research Park System, out-of-state and off-shore facilities, and technical colleges. Eight appendixes provide guidance on the annual permanent improvement plan, overall permanent improvement plan evaluation, master land acquisition plan, routine repair and replacement, life safety measures in residential facilities, architectural and engineering approval, application of trustee funds, and legal documents. (MDM)

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ED 434 580

FACILITIES POLICIES AND PROCEDURES MANUAL

SOUTH CAROLINA COMMISSION ON HIGHER EDUCATION

DIVISION OF FINANCE, FACILITIES, AND STATISTICAL SERVICES

Revised August, 1998

Adopted by the Commission on Higher Education

September 3, 1998

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FOREWORD

The review of permanent improvement projects for South Carolina's public colleges and universities is one of the most important on-going activities of the Commission on Higher Education. The Commission's role and responsibilities in this area were first addressed by the General Assembly in 1967 in the legislation which established the Commission on Higher Education.

This manual incorporates the permanent improvement requirements of the Budget and Control Board and the Joint Bond Review Committee. The manual has been developed for use in making the submission and review of facilities projects as simple and straightforward as possible. Your constructive comments are welcomed.

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OVERVIEW

The Commission's role and responsibilities in reviewing facilities projects was first established in the Commission's enabling legislation in 1967. The Commission is charged with examining the state's institutions of higher learning relative to both short and long-range programs and missions, including capital fund requirements. The Commission is also charged with making recommendations to the Governor's Office, the Budget and Control Board, and the General Assembly as to policies, programs, curricula, facilities, administration, and financing of all state-supported institutions of higher learning.

Any state agency seeking approval of funding for permanent improvement projects by the General Assembly must submit requests for these projects to the Joint Bond Review Committee of the Legislature and to the Budget and Control Board for review and approval. Section 2-47-40 of the South Carolina Code of Laws requires that institutions of higher education submit plans for permanent improvements, proposals and justification statements concerning permanent improvements, to the Committee and the Board through the Commission on Higher Education. Further, the Commission is required to forward each plan and any supporting documentation received from each institution to the Board and the Committee together with its comments and recommendations on each plan and with overall summary comments and recommendations on the several plans considered in the aggregate.

Section 2-47-30 of the South Carolina Code requires that the Joint Bond Review Committee review the establishment of any permanent improvement project not previously authorized specifically by the General Assembly prior to approval by the Budget and Control Board. This means that any proposal for the use of any funds on any project not authorized specifically by an act of the General Assembly is subject to this process. Revisions in the scope of previously authorized projects are also subject to this review and approval process. The Annual Permanent Improvement Program (APIP) was designed to obtain such necessary approvals in one annual event covering at one time an agency's expectations for permanent improvements for the year. The APIP of each higher education institution is to be submitted through the Commission on Higher Education which reviews and forwards its recommendations to the Joint Bond Review Committee and the Budget and Control Board.

Notwithstanding the fundamental purpose of the Annual Permanent Improvement Program, practice has been such that interim consideration of projects which are critical, or permanent improvement projects which are unanticipated, takes place throughout the year. These requests are also submitted to the Committee and the Board through the Commission on Higher Education.

GENERAL POLICY

In reviewing permanent improvement project requests, the Commission places general emphasis on the following: consistency with institutional mission; needs assessment; alternatives to meeting needs; and the proposal for addressing the need. While the law does not specially require the consideration of cost or the source of funds, the Commission also considers these factors as integral components of the overall projects.

Permanent improvement projects requiring Commission approval include, but are not limited to, the acquisition or disposal of land and buildings, new construction, renovation, repair, maintenance, alteration or demolition of existing facilities where the total project cost is equal to or exceeds $100,000; any architectural and engineering work which is intended to result in a permanent improvement; capital lease purchase of any facility acquisition or construction; and equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract.

Each new lease, at a total annual cost of $25,000 or more, and for a term of three or more months, requires Commission review and approval. Subsequent renewals which are not included in the initial lease negotiation are treated as new leases and also require Commission approval. Each request for solicitation of space made to the leasing office of the State Building and Property Services of the Budget and Control Board is to be submitted concurrently to the Commission. The leasing office will not conduct a solicitation without the approval of the Commission. Approval to solicit does not constitute final authorization from the Commission to execute a lease.

The acquisition, construction, or leasing of facilities in the South Carolina Research Park System, and in out-of-state and off-shore locations (including foreign countries) must follow the normal approval processes of the Commission on Higher Education and other State agencies.

The Commission is committed to the development of policies and research of data which will further enhance the permanent improvement approvals process while also considering the best interests of the State. The Commission has adopted policies concerning life-safety issues, architectural and engineering projects, and considers other State agency priorities regarding permanent improvement projects. The Commission maintains a Commission on Higher Education Management Information System (CHEMIS) which consists of several components of State institutional data, one of which is the Facilities component. The Facilities component is comprised of detailed building and room records for each public college and university in the State. These records are updated each Fall and published in a series of reports for evaluation and assessment and planning purposes. Additionally, the funding methodology used by the Commission to determine each institution's Mission Resource Requirement (MRR), uses the data, in part, for the calculation of maintenance and operations of physical plant.

DEFINITIONS AND POLICY DETAIL

Permanent Improvements

Permanent Improvements are defined as:

1. any acquisition of land, regardless of cost;

2. any acquisition (as opposed to the construction) of buildings or other structures, regardless of cost;

3. construction of facilities and any work on existing facilities including their renovation, repair, maintenance, alteration or demolition in those instances where the total cost of all work involved is $100,000 or more;

4. architectural and engineering and other types of planning and design work, regardless of the cost, which is intended to result in a permanent improvement project. Master plans and feasibility studies are **not** permanent improvement projects and, therefore, are not to be included;

5. capital lease purchase of any facility acquisition or construction; and

6. equipment that either becomes a permanent fixture of a facility, or does not become permanent but is included in the construction contract.

These definitions focus on the **significance** rather than on the types of improvements being made. Significance is measured primarily in terms of the magnitude of funds being spent. For example, a $100,000 renovation is considered significant as is a $100,000 project to replace a roof.

The State Board for Technical and Comprehensive Education (SBTCE) and the technical institutions are eligible to receive state funds for capital facilities. Section 50-53-57 requires that SBTCE shall obtain and transfer to the State Treasurer a certificate from the appropriate official at the technical institution stating that a minimum of 20 percent of each project cost has been provided by the local support area. Amounts above 20 percent are subject to the Commission's approval process.

Permanent Improvement Programs

Three methods are used by the institutions in requesting permanent improvements. These are Annual Permanent Improvement Plans, Overall Permanent Improvement Plans, and Master Land Acquisition Plans.

1. Annual Permanent Improvement Plan (APIP)

Each institution responsible for providing and maintaining physical facilities is required to submit an APIP (its physical work program for the year). Each institution's complete APIP should cover only one fiscal year, from July 1 to June 30, and be submitted to the Commission on Higher Education by June 1 of each year. The APIP should include all permanent improvement projects expected to be implemented with funds already available or that the institution can reasonably expect to become available that fiscal year. The APIP excludes **new** requests for Capital Improvement Bond Funds.

Each permanent improvement project proposed for more than $500,000 must be submitted to the Commission on an appropriate A42 form no later than March 1. Proposed permanent improvement projects less than $500,000 but greater than $100,000 must be submitted on an appropriate A42 form by May 1 of each year. The APIP should include all permanent improvement projects (as defined above) expected to be implemented with funds already available or funds expected to

become available that fiscal year. The purpose of the APIP is to focus into one event each agency's expectations for permanent improvements for the year, except for emergencies and other unanticipated critical needs. The APIP of each college and university is to be submitted through the Commission on Higher Education which is to review and forward its recommendations to the Joint Bond Review Committee and the Budget and Control Board.

2. Overall Permanent Improvement Plan (OPIP)

When requested by the Budget and Control Board and the Joint Bond Review Committee, any State institution seeking new authorizations which would make additional funds available for permanent improvement projects by the General Assembly must submit an OPIP to the Joint Bond Review Committee and to the Budget and Control Board for review and approval. The OPIP includes requests for projects to be financed by Capital Improvement Bonds.

These plans must be submitted to the Joint Bond Review Committee and the Budget and Control Board on or before July 1 of the fiscal year in which they are requested. The plans submitted are to cover a period of not less than five fiscal years beginning the next July 1. Any updates submitted thereafter are to cover five fiscal year periods beginning in alternate fiscal years.

Although institutions seeking permanent improvement project funding are requested to submit OPIPs and updates covering five fiscal years, emphasis as a practical matter is on the first and second years of those plans and their updates. Project proposals in years one and two should be described in much greater detail than those proposed for years three, four, and five. Projects proposed for the first two years must be described in enough detail to allow a reviewer to gain a clear understanding of what the proposed projects are and why they are needed. It is especially important that projects which are proposed to be financed by Capital Improvement Bonds be fully and clearly described because these proposals are treated as requests for bond authorizations. Only projects which are proposed for years one and two of the OPIP will be considered by the Commission for recommendation to the General Assembly. Projects proposed for plan years three, four, and five, may simply be listed with an estimate of costs and an indication of the anticipated source of funds.

OPIPs for the public colleges and universities must be submitted to the Joint Bond Review Committee and the Budget and Control Board through the Commission on

Higher Education. The Commission must forward each plan and any supporting documentation received from each institution to the Board and to the Committee, together with the Commission's comments and recommendations on each plan, and with overall summary comments and recommendations on the several plans considered in the aggregate.

3. Master Land Acquisition Program (MLAP)

Any public college or university seeking authorization to acquire land will be permitted to present master plans that outline proposed land acquisitions to the Commission for conceptual approval. The granting of conceptual approval shall be good for an initial five-year period and may be renewed by action of the Commission. If the plan is endorsed by the Commission, then future land acquisitions, provided they were included in the master plan presentation and had received State Building and Property Services' acceptance of the environmental study and appraisal, and provided no student fee increase is required, will be considered by the Facilities Staff of the Commission and will not require additional review by the Commission. Any acquisition activity is presented quarterly, for information, to the Commission's Committee on Finance and Facilities.

Interim Permanent Improvement Project Approvals

During the fiscal year after the APIP and OPIP have been approved by the Commission, an institution may, on occasion, need to amend its program to cover emergencies and unanticipated critical needs. Projects submitted for interim approval are subject to the same requirements that are applicable to the APIP and OPIP. Projects submitted for interim approval will be considered on a quarterly basis. Interim projects of $100,000, but not greater than $500,000, or increases of no more than 10% of the total budget, may be approved by CHE staff. All interim projects greater than $500,000 or increases greater than 10% of the total budget, are subject to action by the full Commission. Project close-outs and changes in funding sources, regardless of the amount, may also be approved by CHE staff. The staff will submit to the Commission on a quarterly basis a list of the projects approved by staff during the previous quarter.

Emergency Requests

Section 11-35-1570 of the SC Code of Laws defines emergency conditions as situations which create an immediate threat to public health, welfare, of safety,

such as may arise by reason of floods, epidemics, riots, equipment failure, fire loss, or such other reasons as may be proclaimed by either the Chief Procurement Officer or head of a governmental body or a designee of either office. The existence of such conditions must create an immediate and serious need . . . than cannot be met through normal procurement methods and the lack of which would seriously threaten: (1) the functioning of State government; (2) the preservation or protection of property; (3) the health and safety of any person; or (4)critical economy and efficiency. Emergency requests will be considered in a timely manner only after written notification as to the nature of the emergency is received by the Commission.

Leases

A lease, as defined by the South Carolina Treasurer's Office, is a signed agreement by an institution which commits that institution to future payments for the use of property. Each lease, including renewals, with a term of three or more months in a single fiscal year and at a total annual cost of $25,000 or more must be approved by the Commission. Leases from $25,000 but not greater than $100,000 may be approved by Commission staff. All leases over $100,000 are subject to action by the full Commission.

Lease requests must be submitted concurrently to the Commission and to the Leasing Office of State Building and Property Services. The Commission staff validates the programmatic need for the lease and verifies the source of funds. The Leasing Office assists the institution with meeting the need by ensuring that the rate and terms of the lease are fair. The Leasing Office will not conduct a solicitation without the approval of the Commission. Approval to solicit does not constitute final authorization from the Commission to execute a lease. Once the Leasing Office has agreed on the terms of the lease, the lease is submitted to the Commission for approval to execute by either the staff or the Commission.

Acquisition of Facilities by Private Foundations and Other Agents

The 1987 General Assembly amended Section 11-35-40 of the 1976 Code to make the South Carolina Consolidated Procurement Code applicable to certain actions of foundations and eleemosynary organizations. The commission's policy concerning the acquisition of facilities is consistent with the intent of the 1976 Code as amended. The policy requires that the acquisition of any facility or permanent improvement (as defined above) by a foundation or eleemosynary organization

(including an Area Higher Education Commission or an Area Technical Education Commission) or any other agent (henceforth referred to as "foundation") on behalf of or for the use of any public institution of higher education which involves the use of public funds in the acquisition, financing, construction, maintenance, or current or subsequent leasing of the facility must have prior approval of the Commission on Higher Education. Regardless of the source of funds, failure to obtain Commission approval prior to taking occupancy of the facility or permanent improvement for institutional purposes will result in the disqualification of that facility or permanent improvement from being considered for funding through the MRR. Failure to establish these requests according to the guidelines for permanent improvement projects is a violation of the Procurement Code.

Further, a permanent improvement acquired by a foundation on behalf of an institution and intended solely for resale or investment purposes need not be approved by the Commission on Higher Education. However, if after the acquisition, the intended use changes in that the institution plans to use the facility, Commission approval is required prior to taking occupancy of the facility for institutional purposes. Failure to obtain Commission approval will result in the disqualification of that facility or permanent improvement from being considered for funding through the MRR.

Routine Repair, Replacement, and Maintenance Projects

Routine repair, replacement, and maintenance projects may be submitted to the Commission staff at any time. These projects will be presented to the Commission in summary form at the next scheduled Commission meeting. If no specific inquiries are expressed by the Commission, or if specific inquiries can be answered to the satisfaction of the Commission, the project will be forwarded to the Budget and Control Board with a positive recommendation. Any project request appearing on the summary list which generates questions or involves issues which cannot be resolved readily to the Commission's satisfaction will be remanded to the Finance and Facilities Committee for standard action at its next regularly scheduled meeting.

The following examples illustrate the types of projects that are considered to be routine repair, replacement, and maintenance of existing facilities.

However, even though a project may fall within the technical definitions outlined below, if the staff believes that particular characteristics of a project require further

consideration, the staff will refer that project to the full review and approval process of the Committee on Finance and Facilities and the Commission.

1. Roof repair/replacement

2. Building system modifications (HVAC, plumbing, electrical, etc.)

3. Interior refurbishment without major reconfiguration of interior space.

4. Exterior refurbishment (waterproofing, window replacement, etc.) excluding additions beyond approximately 1,000 sq. feet.

5. Renovation up to $500,000 that does not result in major building use change or additions beyond approximately 1,000 sq. feet.

6. Code compliance (ADA, elevator, fire, electrical, etc.)

7. Infrastructure modifications/replacement (sewers, waterlines, steam lines, communications systems, etc.)

PROCEDURES

Submission of Project Requests

All requests must be transmitted by letters signed by the president (or his designee) of the institution or, in the case of the University of South Carolina and the State Board for Technical and Comprehensive Education, by the chief executive officer (or his designee) of the system.

A. Submission of Permanent Improvement Project Requests

All requests for permanent improvements must be submitted in duplicate by the institution to the Commission on Higher Education prior to being sent to the staff of the Budget and Control Board. After consideration, the requests along with the Commission's recommendations, will be sent to the appropriate staff of the Budget and Control Board.

Each request submitted to the Commission for action must include the appropriate Budget and Control Board form. The types of requests and the forms required for the requests are listed below:

Type of Request	Required Form
OPIP-New Project	042
APIP-New Project	A42
Interim Request-New Project	A1
Modify Existing Project	A1

Each request must include the following, if applicable:

1. Project Name Identifier - A proposed project name should be included. It should tell where the project is, which facility is involved, and what the project involves. It is essential that the facility or facilities affected by the project be identified clearly. If more than one facility is involved in the project, allocate and identify the costs of the project amount the several facilities.

2. Project Priority - Show the relative importance of the project among all projects proposed. If submitted as part of a project, indicate its priority within the group.

3. Project Description - Classify the project into one of these categories:

- Architectural and Engineering
- Routine Repair, Replacement, and Maintenance
- Purchase Land/Building
- Construction
- Demolish Existing Facilities
- Repair/Renovate Existing Facilities

- A general description of the proposed project should be given. This should be descriptive enough to give readers a clear understanding of the project. Include key specifics such as the total square footage or acreage involved and the estimated cost of major elements of the project. Include square footage of major elements of the proposed project and designate the space as either educational and general (E&G) or non-E&G. In the event the project consists of both E&G and non-E&G space in the same facility, identify the portion that is E&G and the portion that is non-E&G. Attach a map showing the location of the project and include the other requested site location data.

  Describe the relationship of the proposed facility to the campus APIP or the forthcoming five-year planning period, *if appropriate*.

  4. Mission - Explain how the project is consistent with the mission of the institution as approved by CHE and how the project is consistent with the objectives of the program or activity.

  5. Justification - Include a justification for the project. The justification should relate the project to long-term plans, programs, and needs of the institution. Identify the specific academic, research, or public service program which will be served by the project. Include a projection of the number of additional students to be served, services to be provided, or new programs to be initiated. Include a summary of the criteria used, including but not limited to the details of specialized accreditation requirements if appropriate, and of recognized standards for this type of facility and program. If such requirements or standards do not apply, explain the criteria used to determine the scope of the project. Relate the proposed project to the appropriate space utilization report.

  If the proposed project is part of larger project, or if the proposed project completes or complements another project authorized earlier, explain fully the relationship of the proposed project to the whole.

  If appropriate, cite regulatory measures addressed by the proposed project relative to health or safety, energy conservation, or other Federal or State requirements such as building or fire codes.

  If the project represents the proposed acquisition of land or buildings, an acceptable appraisal, environmental study, asbestos certification, and Certificate of Acceptance must be included with the submission.

6. Alternatives - State the alternatives to this project that were considered. Describe any other means of meeting the needs identified which were considered and discarded. Outline any relationships between this project and any other project being proposed or to be proposed. Indicate the effect on the services or activities of the institution if the request is not approved.

7. Estimated Project Costs - Include details of estimated costs and sources of revenue for the project. Indicate the methods used to determine cost estimates. Provide an estimate of the additional costs which may occur if the implementation of the programs or construction of facilities is delayed.

8. Additional Operating Costs - Estimate the additional cost of building maintenance, utilities, and other operating costs that this project would generate.

9. Project Schedule - Identify the project's relation to or dependence upon other current or future capital improvement projects. Estimate the schedule to complete the physical planning, bidding, construction, and equipment phases for occupancy.

10. Proposed Sources of Funds - List the proposed sources of funding for the project by category:

- Capital Improvement Bonds
- Tuition Bonds
- Revenue Bonds (housing, stadium)
- Excess Debt Service (tuition, parking) (housing, plant improvement)
- Appropriate State Funds
- Federal Funds (describe)
- Athletic Funds
- Other (Identify)*

* If private or other third-party funds are involved, provide appropriate documentation that such funds are in-hand or guaranteed.

B. Submission of Lease Requests

All requests for leases must be submitted concurrently by the institutions to both the Commission and the Leasing Office of the State Building and Property Services. A copy of the fully prepared, but unsigned, lease document must accompany the request.

Include the following documentation along with the lease request:

1. Justification- Provide a justification for the lease. Describe the programmatic need that the lease is expected to meet. Explain how the lease is consistent with the mission of the institution as approved by CHE and how it is consistent with the goals and objectives of the program or activity requiring the lease.

2. Alternatives - List any alternatives to the lease that were considered. Describe any other means of meeting the programmatic needs which will be met by the lease.

3. Identify the source of funds to be used for the lease. If private or other third-party funds are involved, provide appropriate documentation that such funds are guaranteed.

C. Presentation of MLAPs to the Commission for Conceptual Approval

All requests to present MLAPs must follow the usual schedule for interim approvals, except for the March/May/June time period reserved for APIPs. Upon conceptual approval of the MLAP by the Commission, individual land acquisition projects may be formally established by submitting the appropriate documentation to staff. Once State Building an Property Services acceptance of the environmental study and approval has been received, and staff confirm that no student fee increase in required, the request will be forwarded to the Budget and Control Board with a positive recommendation.

Permanent Improvement Project Schedule

1. Schedule for Institutional Submission of APIP to the Commission on Higher Education (CHE):

CHE Staff
Due: March 1 (Projects greater than$500,000)
Due: May 1 (Projects less than or equal to $500,000) (as information)
Due: June 1 (Complete APIP Document)

CHE Finance and Facilities Committee
Due: June

Commission on Higher Education
Due: June

2. Schedule for Interim Approvals:

CHE Staff
Due: July 25, October 25, January 25, April 25

CHE Finance and Facilities Committee
Due: September, December, March, June

Commission on Higher Education
Due: September, December, March, June

2. Schedule for Approval of MLAP:

CHE Staff
Due: July 25, October 25, January 25

CHE Finance and Facilities Committee
Due: September, December, March

Commission on Higher Education
Due: September, December, March

Any project requiring only staff action will be considered within 15 working days of receipt, assuming all required information has been provided. Projects that require interim approval by the Committee on Finance and Facilities and the Commission will be considered quarterly as indicated on the above schedules.

Proposals which are incomplete according to the requirements included herein will not be acted upon until the project request is complete.

OTHER RELATED POLICIES

South Carolina Research Park System

The Research Authority has set up the Research Park System in order to meet its legislative mandate . . . to enhance the research capabilities of the state's public and private universities, to establish a continuing forum to foster greater dialogue throughout the research community within the State, and to promote the development of high technology industries and research facilities in South Carolina; to enhance the potential for private support for South Carolina colleges and universities, to promote cooperative research efforts between the private sector and South Carolina universities and colleges, and to strengthen the partnership among state government, higher education, and business and industry; To foster the perception of South Carolina as an international leader in idea generation and the development, testing and implementation of new advances in science and technology; . . .and its legislative direction that the authority shall operate research parks in cooperation with institutions of higher learning in South Carolina. The Commission on Higher Education has responsibility for the approval of facilities of the institutions of higher learning in the State, prior to review by the Budget and Control Board and the Joint Bond Review Committee.

The Commission's policy with respect to facilities in the research parks of the State shall be as follows:

1. In the event that the facility is intended solely for use by the institution of higher learning for instructional/research purposes, the facility will qualify for capital funds and/or lease funds and maintenance funds generated through the Mission Resource Requirement (MRR) in the amount of 100 percent of the MRR generated sum.

2. In the event that the facility is intended partially for use by the institution of higher learning, and partially for use by outside parties, the facility should qualify for capital and/or leasing funding in a proportion to the use by the institution of higher learning for instructional and research purposes and shall qualify for maintenance funds generated through the MRR in proportion to the use by the institution of higher learning for instructional/research purposes.

3. In the event that the facility is intended for use totally by outside parties, the facility shall not qualify in any way for capital and/or lease funding and shall not qualify for operation and maintenance funding under the operation and maintenance step of the MRR.

4. The institutions of higher learning shall furnish to the Commission on Higher Education annually, appropriate data to support the request for capital and/or lease funding and for funds for operation and maintenance.

Acquisition, Operation and Maintenance of Out-of-State and Off-Shore Facilities

Acquisition of facilities in out-of-state and off-shore locations must follow the normal approval processes of the Commission on Higher Education and other State agencies. Acquisition, operations and maintenance funds for facilities, and lease funds, will not be recommended through the physical plant step of the MRR unless and until the facility has been under the control of, leased or operated by the institution, for at least three years prior to qualifying for funding under the MRR.

Permanent Improvement and Lease Requests of Technical Colleges

Notwithstanding any review which may be required by the State Board for Technical and Comprehensive Education, Commission on Higher Education review and approval is mandatory for the following unless otherwise exempted elsewhere in this document:

1. Any leases of land, buildings, or other structures including subsequent amendments and/or renewals;

2. Any acquisition of land, buildings, or other structures;

3. The construction of additional facilities or additional square footage to an existing facility including any subsequent project changes;

4. Any renovation project designed to accomplish space reconfiguration and/or space use change;

5. Any separate architectural and engineering, or design work which could eventually require Commission review as a permanent improvement.

Any project which only entails routine maintenance and repair shall be excluded provided that it is of a routine nature and represents work contained in the institution's ongoing maintenance cycle.

The State Board for Technical and Comprehensive Education (SBTCE) and the technical institutions are eligible to receive state funds for capital facilities. Section 59-53-57 of the South Carolina Code of Laws requires that the State Board shall obtain and transmit to the State Treasurer a certificate for the appropriate official at the technical institution stating that a minimum of 20 percent of each project cost has been provided by the local support area. Amounts above the required 20 percent are subject to the Commission's approval process. The provisions of this paragraph do not apply to Denmark Technical College and Technical College of the Low Country.

The Commission staff will not review, nor submit to the Finance and Facilities Committee and the Commission for review, any permanent improvement project or lease request which has not first been reviewed and approved by the State Board for Technical and Comprehensive Education.

APPENDICES

APPENDIX A

Annual Permanent Improvement Plan (APIP)

Commission on Higher Education

The annual APIP is the primary vehicle for submitting capital improvement projects to the Commission on Higher Education. The Commission expects institutions to be as inclusive as possible when completing APIP forms. Include

any capital improvement project, both new and increases to existing projects, for which you can reasonably expect to obtain funding in the APIP fiscal year.

APIP Forms are mailed to the institutions from the Property Management Division of the Budget and Control Board. All APIPs for projects greater than $500,000 are due to the Commission on Higher Education no later than March 1. All APIPs for projects below $500,000 are due to CHE no later than May 1.

Please provide two (2) copies of your APIP document to CHE, one (1) unbound and five (5) bound copies of your APIP document to the Property Management Division of the Budget and Control Board.

APPENDIX B

(Example)

1995 Overall Permanent Improvement Plan (OPIP)

Commission on Higher Education

Project Evaluation Form

1. The degree to which the institution maintains its existing physical plant. This is evidenced largely by actual expenditures on physical plant versus formula allocations.

2. The degree to which the proposed project addresses deferred maintenance needs as represented in the Building Quality Survey or demonstrable infrastructure needs.

3. Project for which justification is established through externally documented reports (CHE consultants, institutional and/or specialized accreditation, special studies, especially based upon the use of objective space standards, etc.) and /or staff evaluation that existing space is inadequate in terms of quality.

4. Project for which justification is based on an unsatisfactory aggregate level of space suitability, documented through external reports and/or staff evaluation. (Additional information on the suitability concept can be found in Chapter 5 of the South Carolina Higher Education Facilities Inventory and Classification Manual, 1992.)

5. Space programmed for the proposed project is demonstrably based upon application of objective space standards.

6. Project addresses a current established need and not a projected need based on future enrollment and or proposed program growth.

7. Project represents the following type of space:

a. Instruction and/or Research
b. Academic Support
c. Student Support Services
d. Public Service
e. Institutional Support

8. Project will not drive future funding needs (operating and/or other capital funding needs (operating and/or other capital) beyond the institution's fiscal capacity. Evidence is presented that the institution has a sound plan for addressing additional needs resulting from this project.

9. Evidence is presented that all sensible alternatives have been considered and that the proposal represents the best known long-term resolution of the problem.

10. Degree to which the project corresponds to the institution's mission and enhances institutional effectiveness/efficiencies with respect to programs and/or costs.

11. Degree to which the total estimated project cost (including each component) can be documented as realistic.

APPENDIX C

Commission on Higher Education

Master Land Acquisition Plan (MLAP) Policy

Institutions may present master plans that outline proposed land acquisitions to the Finance and Facilities Committee and the Commission for conceptual approval. The granting of conceptual approval shall be good for an initial five-year period and may be renewed by action of the commission. If the plan is endorsed by the Commission, then future land acquisitions, provided they were included in the master plan presentation and had received Property Management acceptance for the environmental study and appraisal, and provided that no student fee increase is

required, will be considered by the facilities staff and will not require additional review by the Finance and Facilities Committee or the Commission. Staff will report any acquisition activity to the Finance and Facilities Committee at least quarterly.

Commission on Higher Education

Master Land Acquisition Plan Schedules

All requests to present MLAPs to the Finance and Facilities Committee and the Commission must follow the usual schedule for interim approvals, excepting the April-June time period which is reserved for APIPs. Upon conceptual approval of the Plan by the Commission, components of the plan may be established as projects any time during the following five-year period, according to the Guidelines.

Deadlines for:

MLAP Requests

July 25
October 25
January 25

Finance & Facilities Committee

September
December
March

Commission on Higher Education

September
December
March

Commission on Higher Education

Guidelines for Submitting Master Land Acquisition Plan Requests

A. Plan Requirements:

The proposed Master Land Acquisition Plan (MLAP) should consist of the following:

1. A narrative report describing the Master Land Acquisition Plan including the following components:

- Include justification as it related to current and long-term plans, programs (including academic) and institutional needs. Support this justification with available relevant and appropriate data.

- Indicate the physical impact the acquisition(s) will have on current master plan boundaries.

- State alternatives to purchasing the land which have been considered and any other means of meeting the needs identified which were considered and discarded. Indicate the effect on the services or activities of the institution if the Plan is not approved.

- Provide a summary of land characteristics such as estimated total acreage, identified improvements including type of structure and estimated gross square footage (if applicable), location of land in relationship to the campus, and a clear map of the subject site that indicates this relationship and that may easily duplicated for distribution to Commission members.

2. Submission of Project Requests:

In order to establish each component of an institution's approved MLAP as a project, each request must be transmitted with a letter signed by the president (or designee) of the institution or, in the case of the USC-System and the SBTCE, by the chief executive officer (or designee) of the system. Each request must be submitted in triplicate to the Commission staff prior to being sent to the property management staff of the Budget and Control Board. CHE staff will review the request to determine that:

(1) no substantive changes or student fee increases are involved; and

(2) property management staff has confirmed that the environmental study and appraisal are acceptable and support the purchase price.

Once these criteria have been confirmed, CHE staff will forward a positive recommendation to the appropriate staff of the Budget and Control Board.

APPENDIX D

Commission on Higher Education

Policy for Consideration of Routine Repair, Replacement, and Maintenance Projects

Routine repair, replacement and maintenance projects may be submitted to the Commission staff at any time. Staff will review requests for appropriate justification and fund source documentation. Projects meeting staff review and approval of this nature that require Commission approval will be presented to the Commission in summary form in the Commission's next monthly mail out. This summary list of projects will be considered at the monthly Commission meeting in its entirety. If no specific inquiries are expressed, or if specific inquiries can be answered satisfactorily, the project will be forwarded to the Budget and Control Board with a positive recommendation. Any project request appearing in the summary list which generates questions or involves issues which cannot be resolved readily to the Commission's satisfaction will be remanded to the Finance and Facilities Committee for standard action at its next regularly scheduled meeting.

The following examples are provided to illustrate the types of projects that are considered routine repair, replacement, and maintenance of existing facilities. The list is illustrative and not intended to be exhaustive. However, even though a project may fall within the technical definitions outlined below, if the staff believes that particular characteristics of a project require further consideration, the staff will refer that project to the full review and approval process of the Committee on Finance and Facilities and the Commission.

- Roof repair/replacement

- Building system modifications (HVAC, plumbing, electrical, etc.)

- Interior refurbishment without major reconfiguration of interior space.

- Exterior refurbishment (waterproofing, window replacement, etc.) excluding additions beyond approximately 1,000 square feet.

- Renovation not greater than $500,000 that does not result in major building use change or additions beyond approximately 1,000 square feet.

- Code compliance (ADA, elevator, fire, electrical, etc.)

- Infrastructure modification/replacement (sewers, water lines, steam lines, communications systems, etc.)

APPENDIX E

Commission on Higher Education

Life Safety Measures in Residential Facilities

In February, 1997, each institution with residential facilities was requested to prepare a summary of the status of life-safety systems in those facilities, and to prepare a plan to address any deficiencies in the systems. These plans were summarized and presented to the Commission.

In October, 1997, the Commission adopted a recommendation that each institution be strongly encouraged to implement all of the life-safety measures outlined in the respective institutional plans, and that institutions report to the Commission annually the status of these life-safety plans as part of the annual budget presentations. The Commission also adopted a recommendation that all auxiliary enterprise capital projects submitted for approval would be considered in relation to unmet needs of projects related to life-safety issues.

APPENDIX F

Commission on Higher Education

Architectural and Engineering Approval Policy

At its meeting on December 7, 1995, the Commission adopted the following policy regarding approvals for expending funds for architectural and engineering (A&E) work associated with permanent improvement requests.

- Where no definite source of funds has been identified, no A&E work beyond the design development stage will be approved. Full A&E work will be approved only when a sufficient source of funds has been identified and the full project has received Commission approval.

APPENDIX G

Application of Trustee Held Funds in Connection with Approved Campus-Wide Permanent Improvement Projects

The following information is submitted by the State Treasurer's Office as Trustee for bond issues of the State and its colleges and universities.

There are two basic types of bonds/notes which may be issued for borrowings by public colleges and universities. These are State Institution Bonds and Revenue Bonds. State Institution Bonds are general obligations of the State and are additionally secured by a pledge of certain tuition fees collected by the borrowing institution. Chapter 107 (entitled State Institution Bonds) of Title 59, SC Code of Laws, is the primary governing statute concerning the issuance of State Institution Bonds. Revenue Bonds are the obligations of the Issuer/Institution and are secured by a pledge of the revenue generated by a facility or a group of facilities. The revenue-backed borrowings are generally associated with the auxiliary enterprise functions of the institutions. An example of this type of borrowing would be a Student Faculty Housing (SFH) Revenue Bond issued to construct a new dormitory, with revenues of the new dormitory as well as revenues of the existing dormitories being pledged to the payment of all bond issues currently outstanding or subsequently issued.

In the State Treasurer's role as Trustee, it shares with the Issuer/Borrower the responsibility of maintaining compliance with the accounting and security requirements of the various governing statutes and bond resolutions. One aspect of this responsibility concerns the funding of approved permanent improvement projects. Essentially all governing statutes and/or bond resolutions require that the facilities be maintained in good repair. This is generally required so that the facilities remain in a productive, income-earning, status and produce the necessary revenues to enable the Borrower (the Issuer, i.e. the college or university) to repay the Lender (Investor/Bondholder).

Governing statutes and bond resolutions connect the specific facilities groups and their related revenues. To this end, the Treasurer's Office looks to fund auxiliary-related facilities projects with auxiliary-related revenues from those facilities. To accomplish this at each institution, the "Other-09" fund source (maintenance reserve fund, capital reserve fund, improvement fund, etc.) for newer governing resolutions or the "Excess Debt Service-04" fund source for some of the older governing resolutions. Similarly, any portion of tuition fees (that are recognized as the portion collected for debt service on State Institution Bonds and deposited with the State Treasurer's Office) that are not needed for debt service on State Institution Bonds may be utilized to fund Education and General projects in lieu of issuing State Institution Bonds. To accomplish this at each institution, the "Other-09" fund source identified as Institution Capital Project Fund is used.

The forgoing assists the Treasurer's Office, and the Issuer, to insure that appropriate fund sources (revenues) pay for their appropriate facilities related projects. Similarly, it is expected that the fund sources utilized to pay for any broad campus-wide project(s) would be allocated on some fair and reasonable basis to insure that revenues of the various types of facilities benefiting from the improvement would share proportionately in the total project costs. For example, if a new Replace Steam Line project would benefit two classroom buildings and one dormitory (all of equal size and utilization), then two-thirds of the estimated project cost should be absorbed by the Institution Capital Project Fund, and one-third should be absorbed by the SFH Maintenance Reserve Fund. This allocation should be established at the initial stage of project planning and design and ultimately should be refined throughout the construction/completion phase as more accurate bases are developed.

Legal Documents Pertaining to Postsecondary Education Facilities

Role of the Commission - Title 59, Chapter 103:

'59-103-20. Studies of institutions of higher learning.

The commission shall meet regularly and shall have the authority and responsibility for a coordinated, efficient, and responsive higher education system in this State consistent with the mission of each type of institution as stipulated in Section 59-103-15. In meeting this responsibility and in performing its duties and functions, the commission shall coordinate and collaborate at a minimum with the Council of Presidents of State Institutions, the council of board chairs of the various public institutions of higher learning, and the business community. The Commission is also charged with examining the state's institutions of higher learning relative to both short and long-range programs and missions which include:

(a) the role of state-supported higher education serving the needs of the State and the roles and participation of the individual institutions in the statewide program;

(b) enrollment trends, student costs, business management practices, accounting methods, operating results and needs, and capital fund requirements;

(c) the administrative setup and curriculum offerings of the several institutions and of the various departments, school, institutes, and services within each institution and the respective relationships to the services and offerings of other institutions;

(d) efforts to promote a clearer understanding and greater unity and good will among all institutions of higher learning, both public and private, in the interest of serving the educational needs of the people of South Carolina on a statewide level.

HISTORY: 1996 Act No. 359, '3, eff July 1, 1996

' 59-103-25. Publication of legislation; standing committees.

The commission shall compile and publish legislation applicable to it so that the relationships among the commission, the governing bodies of public institutions of higher education, the General Assembly and the executive branches of government may be more clearly established and understood.

The Commission shall create from among its membership such standing committees as it may deem necessary. The creation of the committees and their duties shall be prescribed by a two-thirds vote of the membership of the commission. Special committees may be created and their duties prescribed by a majority vote of the membership of the commission.

HISTORY: 1978 Act No. 410 ' 5.

' 59-103-35. Submission of budget; new and existing programs.

All institutions of higher learning shall submit an annual budget request to the commission in the manner set forth in this section.

(A) The State Board for Technical and Comprehensive Education shall submit an annual budget request to the commission representing the total requests of all area-wide technical and comprehensive educational institutions.

(B) The budget submitted by each institution and the State Board for Technical and Comprehensive Education must include all state funds, federal grants, tuition, and fees other than funds derived wholly from athletic or other student contests, from the activities of student organizations, from approved private practice plans, and from the operation of canteens and bookstores which may be retained by the institutions and be used as determined by the respective governing boards, subject to annual audit by the State.

(C) Fees established by the respective governing boards for programs, activities, and projects not covered by appropriations or other revenues may be retained and used by each institution as previously determined by the respective governing boards, subject to annual audit by the State.

(D) The budget request for the public higher education system shall be submitted by the commission to the Governor and appropriate standing committees of the

General Assembly in conjunction with the preparation of the annual general appropriations act for the applicable year.

(E) Supplemental appropriations requests from any public institution of higher education must be submitted first to the commission. If the commission does not concur in the requests, the affected institution may request a hearing on the requests before the appropriate committee of the General Assembly. The commission may appear at the hearing and present its own recommendations and findings to the same committee. The provisions of this paragraph do not apply to any capital improvement projects funded in whole or in part prior to July 30, 1996.

' 59-103-60. Recommendations to Governor's Office and General Assembly.

The commission shall make such recommendations to the Governor's Office and the General Assembly as to policies, programs, curricula, facilities, administration, and financing of all state-supported institutions of higher learning as may be considered desirable. The House Ways and Means Committee, the Senate Finance Committee, and the State Budget and Control Board may refer to the commission for investigation, study, and report any requests of institutions of higher learning for new or additional appropriations for operating and for other purposes and for the establishment of new or expanded programs.

HISTORY: 1995 Act No. 137, ' 3, eff June 28, 1995; 1996 Act No. 359 ' 7, eff July 1, 1996.

' 59-103-70. Reports

The commission shall make reports to the Governor and the General Assembly at least annually on the status and progress of higher education in the State, with such recommendations as may be appropriate.

' HISTORY: 1962 Code ' 22-15-10; 1962 (52)1956; 1967 (55)261.

' 59-103-110. Approval for new construction; exemptions.

No public institution of higher learning shall be authorized to construct or purchase any new permanent facility at any location other than on a currently approved campus or property immediately contiguous thereto unless such new location or purchase of improved or unimproved real property has been approved by the commission.

HISTORY: 1996 Act No. 359, ' 9, eff July 1, 1996.

State Institution Bonds - Title 59, Chapter 107:

' 59-107-20. Tuition fees required at State institutions; State Board defined.

Tuition fees (as such term is defined in ' 59-107-30) shall be required to be paid in such amount or amounts and under such conditions as the respective Board of Trustees, Area Commissions or, for any Technical Education College or Center not governed or supervised by an Area Commission, the State Board for Technical and Comprehensive Education, of such state institutions shall prescribe, with he approval of the State Budget and Control Board, hereafter in this chapter referred to as the "State Board." The provisions of this section shall not be construed as requiring uniformity of tuition fees at such state institutions nor shall they preclude a higher scale for non-residents of South Carolina.

HISTORY: 1962 Code ' 22-22; 1953 (48) 169; 1966 (54) 2263; 1977 Act No. 249 Pt II ' 2.

' 59-107-30 Remittance and application of tuition fees.

All tuition fees received by any State institution shall be remitted from time to time to the State Treasurer under such regulations as he shall prescribe. The State Treasurer shall apply the same as directed by this Chapter. For all purposes of this chapter, the term *"tuition fees"* shall include those fees charged by any State institution for tuition, matriculation and registration. The term *"tuition fees"* shall not include sums charged for enrolling in courses or classes offered at any summer school term or in any special seminar, no shall the term relate to or include fees levied or charged for purposes other than for the purposes of this chapter.

HISTORY: 1962 Code ' 22-23; 1953 (48) 169; 1960 (51) 1779; 1966 (54) 2263.

' 59-107-40. Application for funds or permanent improvements and other expenses; content of application.

The respective Boards of Trustees, Area Commissions, through the State Board for Technical and Comprehensive Education, or through the State Board for Technical and comprehensive Education for any Technical Education College or Center not governed and supervised by an Area Commission of such state institutions may make application to the State Budget and Control Board for funds to be used for any one or more of the following purposes: (a) to construct, reconstruct, maintain, improve, furnish and refurnish the buildings and other permanent improvements

for such state institutions, (b) to defray the costs of acquiring or improving land needed as sites for such improvements or for the campus of any such state institution, (c) to reimburse such institution for expenses incurred in anticipation of the issuance of such bonds, or (d) to refund state institution bonds heretofore issued for such institutions and which shall on such occasion be outstanding. Such application shall contain:

(1) A description of the improvement sought, or the amount of outstanding bonds it wishes to have refunded;

(2) An estimate of cost, or an estimate of the money required to effect the refunding;

(3) A statement establishing the aggregate sum received from tuition fees for the fiscal year immediately preceding the fiscal in which such application is dated.

(4) The schedule of tuition fees in effect;

(5) A suggested maturity schedule for bonds issued pursuant to this chapter; and

(6) A statement showing the unmatured state institution bonds theretofore issued for such state institution.

The application shall contain an agreement upon the part of the Board of Trustees, Area Commission, or State Board for Technical and Comprehensive Education that such schedule of tuition fees shall be revised form time to time and whenever necessary to provide the annual principal and interest requirements on the proposed bonds and on all outstanding state institution bonds issued for such state institution.

HISTORY: 1962 Code ' 22-24; 1953 (48) 169; 1954 (48) 1708; 1961 (52) 476; 1963 (53) 583; 1966 (54) 2263; 1977 Act No. 249 Pt II ' 3; 1991 Act No. 65, ' 1, eff May 27, 1991.

' 59-107-50. Authority of State Board as to applications.

The State Board may approve, in whole or in part, or modify in any way that it sees fit any application made by any Board of Trustees, Area Commission, or by the State Board for Technical and Comprehensive Education of any of the state

institutions and may direct the application of the principal proceeds of any bonds, issued pursuant to this chapter for such purpose if it shall have found:

(1) That a definite and immediate need therefore exists, or in the event that the issuance of refunding bonds is sought, that it is to the advantage of the institution to effect the refunding of its outstanding bonds;

(2) That a satisfactory and proper schedule of tuition fees is in effect at such State institution;

(3) That the annual debt service on all state institution bonds issued for such state institution, including the bonds then proposed to be issued, shall not exceed ninety percent of the sums received by such state institution of higher learning from tuition fees for the preceding fiscal year.

(4) That the Board of Trustees, Area Commission, or State Board for Technical and Comprehensive Education of the state institution has agreed that such schedule of tuition fees may be revised from time to time and whenever necessary to provide not less than the sum needed to pay the annual principal and interest requirements on the proposed bonds and on all outstanding state institution bonds issued for such institution.

HISTORY: 1962 Code ' 22-25; 1953 (48) 169; 1957 (50) 138; 1961 (52) 476; 1966 (54) 2263; 1976 Act No. 582 ' 1; 1977 Act No. 249 Pt II ' 4; 1991 Act No. 65, ' 1, eff May 27, 1991.

' 59-107-180. Tuition fees placed in special fund to pay bonds; application of surplus.

Immediately following the issuance of state institution bonds, the State Treasurer shall segregate into a special fund all tuition fees of the state institution for which State institution bonds have been issued and shall apply such special fund to the payment of the principal, interest and redemption premium, if any on all bonds issued pursuant to this chapter for such institution; provided, however, that in the event the monies on deposit in such special fund at any time shall exceed all payments of principal and interest due in the then current fiscal year, plus the maximum annual debt service requirements in any succeeding fiscal year of all state institution bonds outstanding for such institution that were issued prior to March 1, 1991, plus any additional amount described in the last sentence of this section, the State Treasurer shall thereupon establish within the special fund created by this section separate funds for each issuance of state institution bonds

for such state institution to be designated "special" debt service and reserve funds, and (1) shall deposit in the special debt service and reserve fund each issuance of state institution bonds that was issued prior to March 1, 1991, an amount equal to all payments of principal and interest in the then current fiscal year on such issuance, plus the maximum annual debt service requirements in any succeeding fiscal year of such issuance, and (2) shall deposit in the special debt service and reserve fund for each issuance of such state institution bonds that was issued on or after March 1, 1991, an amount equal to all payments of principal and interest due on such issuance of state institution bonds in the then current fiscal year. Upon establishment and funding of such special debt service and reserve funds for the state institution bonds for any state institution in accordance with the foregoing sentence, the State Treasurer shall apply tuition fees later received to maintain the level of the special debt service and reserve funds at the level required by the foregoing sentence as such level may be adjusted as current annual and maximum annual requirements vary, and may apply any remaining tuition fees and any monies still remaining in the general special fund after the complete funding of the special debt service and reserve funds: to the defeasance of state institution bonds for such institution as provided in Section 59-107-100; or to any purpose set forth in subitems (1), (b), and (c) of the first paragraph of section 59-107-40. In the event the surplus is to be applied to the defeasance of bonds, the computation of annual debt service requirements for purposes of this section shall be made as though the bonds to be defeased had already been defeased. Notwithstanding the foregoing, it is expressly provided that the State Treasurer may increase the required level for a special debt service and reserve fund for an issuance of state institution bonds issued on or after March 1, 1991, to an amount equal to all payments of principal and interest due on such issuance of state institution bonds in the then current fiscal year plus an amount equal to all payments of principal and interest due on such issuance of state institution bonds to become due between the end of the then current fiscal year and the date at which the State Treasurer anticipates receiving sufficient deposits of tuition fees from such state institution in the ensuing fiscal year to provide an adequate cash flow to meet debt service requirements for such ensuing fiscal year.

HISTORY: 1991 Act No. 65, ' 7, eff May 27, 1991.

'59-107-190. Declaration of sufficiency of tuition fees to pay bonds.

The General Assembly finds that the tuition fees charged at the several State institutions, if maintained and applied in the manner prescribed by this chapter,

will be sufficient to provide for the payment of the principal and interest on State institution bonds issued pursuant to this chapter, without resorting to a property tax.

HISTORY: 1962 Code ' 22-39; 1953 (48) 169.

Facilities and Improvements for Technical Colleges -Title 59, Chapter 53:

' 59-53-57. State funding; use of monies appropriated for short-term and innovative training; creation and membership of Private Job Training Review Committee.

State funds for the South Carolina Technical Education System must be appropriated to the Board by the General Assembly and funds budgeted for the technical institutions must be allocated in a uniform and equitable manner. Monies appropriated for special schools must be retained at the state level and expended upon recommendation of the Board. The Board and all institutions under its direction shall use prescribed statewide accounting and budgeting systems which shall account for all revenues and expenditures regardless of sources of funds and purposes for which expended. The systems shall include provisions to identify specific revenues with the specific expenditures to which they relate when the fund source so requires.

The board and institutions are eligible to receive state funds for capital facilities. Prior to the withdrawal of authorized funds from the State Treasurer, the State Board for Technical and Comprehensive Education shall obtain and transmit to the State Treasurer a certificate from the appropriate official at the technical institution stating that a minimum of twenty percent of each project cost has been provided by the local support area. The provisions of this paragraph do not apply to Denmark and Beaufort Technical Colleges.

' 59-53-152. Board may construct or acquire plant improvements.

The board may construct or acquire plan improvements at any college, and thereafter utilize, operate and maintain them, if such undertakings have received prior approval of the statement board.

' 59-53-153. Bond issues.

The board may issue bonds of any college payable from the special student fee imposed at such college in such amounts as may from time to time be determined by the board to be necessary to meet the cost of plant improvements at such college but only under the following conditions:

(1) The approval of the statement board, expressed by resolution duly adopted, shall be obtained. Such approval is hereby declared a condition precedent to the issuance of bonds pursuant to this article, and no bonds shall be issued without such approval.

(2) Notwithstanding any other provisions of this article, there must not be outstanding at any time bonds issued pursuant to this section for any college in excess of four million dollars.

(3) No bonds may be issued unless there is on deposit in the bond reserve fund for such college a sum equal to the lesser of (a) ten percent of the principal of all bonds then outstanding, or (b) the maximum reserve prescribed by the applicable regulations of the United States Treasury Department relating to arbitrage bonds.

HISTORY: 1978 Act No. 646 ' 5, eff July 25, 1978; 1988 Act No. 638, ' 7(B), eff June 3, 1988.

' 59-53-154. Bond issues; full faith and credit of State shall not be pledged.

The faith and credit of the statement shall not be pledged for the payment of the principal and interest of any bonds issued pursuant to this article and there shall be on the face of each bond a statement plainly worded to that effect. Neither the members of the board nor any other person executing the bonds shall be personally liable thereon.

HISTORY: 1978 Act No. 646 ' 5, eff July 25, 1978.

' 59-53-155. Bond issues; resolutions by board; limitations.

In order to utilize the authorizations of this article, the board on behalf of any college may adopt resolutions providing for the issuance of bonds for the college within the limitations herein mentioned, and by such resolution shall prescribe the tenor, terms and conditions of the bonds and the obligations of the college incurred

in connection with their issuance. The bonds for any college may be issued either as a single issue or from time to time as several separate issued. In the event that the bonds for any college shall be issued as two or more issues, then notwithstanding, all bonds for such college shall be on a parity in all respects *inter sese* and shall be equally and ratably entitled to payment from the special student fee imposed at the college; *provided*, that in instances were an area commission is in charge of the operations of any college, the approval of the area commission to the action of the board authorized by this section shall be first obtained.

HISTORY: 1978 Act No. 646 ' 5, eff July 25, 1978.

Educational Facilities Authority Act for Private Nonprofit Institutions of Higher Learning - Title 59, Chapter 109:

' 59-109-20. Legislative declaration of policy and purpose.

It is hereby declared that for the benefit of the people of the State, the increase for their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions for higher education within the State be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; and that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable institutions for higher education in the State to provide the facilities and structures which are sorely needed to accomplish the purposes of this chapter, all to the public benefit and good, to the extent and manner provided herein.

HISTORY: 1962 Code ' 22-41; 1969 (56) 444.

"The State plays a passive and very limited role in the implementation of this chapter, serving principally as a mere conduit through which institutions may borrow funds for the purposes of the act on a tax-free basis."

"The true purpose of this chapter is to provide a measure of assistance and an alternative method to enable institutions for higher learning in the State to provide the facilities and structures which are sorely needed to accomplish this aim to the public benefit and good of all the people of this State."

Source: CASE NOTES, Title 59, Chapter 109, Code of Laws of South Carolina, 1976.

Joint Bond Review Committee - Title 2, Chapter 47:

' 2-47-30. Powers and Duties.

The committee is specifically charged with, but not limited to, the following responsibilities:

(1) To review, prior to approval by the Budget and Control Board, the establishment of any permanent improvement project not previously authorized specifically the General Assembly.

(2) To study the amount and nature of existing general obligation and institutional bond obligations and the capability of the State to fulfill such obligations based on current and projected revenues.

(3) To recommend priorities of future bond issuance based on the social and economic needs of the State.

(4) To recommend prudent limitations of bond obligations related to present and future revenue estimates.

(5) To consult with independent bond counsel and other non-legislative authorities on such matters and with fiscal officials of other states to gain in-depth knowledge of capital management and assist in the formulation of short and long-term recommendations for the General Assembly.

(6) To carry out all of the above assigned responsibilities in consultation and cooperation with the executive branch of government and the Budget and Control Board.

(7) To report its findings and recommendations to the General Assembly annually or more frequently if deemed advisable by the committee.

HISTORY: 1976 Act No. 761 ' 3; 1979 Act No. 194 Part I ' 10, apparently effective Aug. 8, 1979.

' 2-47-35 Establishment of funding priorities.

No project authorized in whole or in part for capital improvement bond funding under the provisions of Act 1377 of 1968, as amended, may be implemented until funds can be made available and until the Joint Bond Review Committee, in consultation with the Budget and Control Board, establishes priorities for the

funding of the projects. The Joint Bond Review Committee shall report its priorities to the members of the General Assembly within thirty days of the establishment of the funding priorities.

HISTORY: 1986 Act No. 547, ' 3, eff June 9, 1986.

' 2-47-40 Information to be furnished by agencies and institutions.

To assist the State Budget and Control Board (the Board) and the Joint Bond Review Committee (the Committee) in carrying out their respective responsibilities, any agency or institution requesting or receiving funds from any source for use in the financing of any permanent improvement project, as a minimum, shall provide to the Board, in such form and at such times as the Board, after review by the Committee, may prescribe: (a) a complete description of the proposed project; (b) a statement of justification for the proposed project; (c) a statement of the purposes and intended uses of the proposed project; (d) estimated total cost of the proposed project; (e) an estimate of the additional future annual operating costs associated with the proposed project; (f) a statement of the expected impact of the proposed project on the five-year operating plan of the agency or institution proposing the project; (g) a proposed plan of financing the project, specifically identifying funds proposed from sources other than capital improvement bond authorizations; and (h) the specification of the priority of each project among those proposed.

All institutions of higher learning shall submit permanent improvement project proposal and justification statements to the Board through the Commission on Higher Education which shall forward all such statements and all supporting documentation received to the Board together with its comments and recommendations. The recommendations of the Commission on Higher Education, among other things, shall include all of the permanent improvement projects requested by the several institutions listed in the order of priority deemed appropriate by the Commission on Higher Education without regard to the sources of funds proposed for the financing of the projects requested.

The Board shall forward a copy of each project proposal and justification statement and supporting documentation received together with the Board's recommendations on such projects to the Committee for its review and action. The recommendations of the Commission on Higher Education shall be included in the materials forwarded to the Committee by the Board.

No provision in this section or elsewhere in this chapter, shall be construed to limit in any manner the prerogatives of the Committee and the General Assembly with regard to recommending or authorizing permanent improvement projects and the funding such projects may require.

HISTORY: 1980 Act No. 518, ' 11, apparently eff June 11, 1980.

' 2-47-50 Establishment of permanent projects by Board

The board shall establish formally each permanent improvement project before actions of any sort which implement the project in any way may be undertaken and no expenditure of any funds for any services or for any other project purpose contracted for, delivered, or otherwise provided prior to the date of the formal action of the board to establish the project shall be approved. State agencies and institutions may advertise and interview for project architectural and engineering services for a pending project so long as the architectural and engineering contract is not awarded until after s state project number is assigned. After the committee has reviewed the form to be used to request the establishment of permanent improvement projects and has reviewed the time schedule for considering such requests as proposed by the board, requests to establish permanent improvement projects shall be made in such form and at such times as the board may require.

Any proposal to finance all or any part of any project using any funds not previously authorized specifically for the project by the General Assembly or using any funds not previously approved for the project by the Board and reviewed by the Committee shall be referred to the Committee for review prior to approval by the Board.

Any proposed revision of the scope or of the budget of an established permanent improvement project deemed by the Board to be substantial shall be referred to the Committee for its review prior to any final action by the Board. In making their determinations regarding changes in project scope, the Board and the Committee shall utilize the permanent improvement project proposal and justification statements, together with any supporting documentation, considered as the time the project was authorized or established originally. Any proposal to increase the budget of a previously approved project using any funds not previously approved by the Board and reviewed by the Committee shall in all cases be deemed to be a substantial revision of a project budget which shall be referred to the Committee for review. The Committee shall be advised promptly of all actions taken by the

Board which approve revisions in the scope of or the budget of any previously established permanent improvement project not deemed substantial by the Board.

HISTORY: 1993 Act No. 178, ' 4, eff July 1, 1993.

' 2-47-55. Annual permanent improvement programs.

All state agencies responsible for providing and maintaining physical facilities are required to submit an Annual Permanent Improvement Program (APIP) to the Joint Bond Review Committee and the Budget and Control Board. The APIP must include all of the agency's permanent improvement projects anticipated and proposed to be started in the upcoming year. The purpose of the APIP process is to provide the board and the committee with a comprehensive view of each agency's permanent improvement activities. Agencies must submit an APIP to the committee and the board on or before June 15 of each year. The APIP covers the next fiscal year period beginning July 1. The APIP covers the next fiscal year period beginning July 1. The APIP for each higher education agency, including the technical colleges, must be submitted through the Commission on Higher Education which must review the APIP and provide its recommendations to the board and the committee. The board and the committee may develop policies and procedures to implement and accomplish the purposes of this section. The APIP must be approved by August first of the fiscal year for which the APIP applies.

The State shall define a permanent improvement only in terms of capital improvements, as defined by generally accepted accounting principles, for reporting purposes to the State.

HISTORY: 1993 Act No. 178, ' 5, eff July 1, 1993.

' 2-47-56. Acceptance of gifts-in-kind for architectural and engineering services.

Each state agency and institution may accept gifts-in-kind for architectural and engineering services and construction of a value less than two hundred fifty thousand dollars with the approval of the Commission of Higher Education or its designated staff, the Director of the Division of General Services, and the Joint Bond Review Committee or its designated staff. No other approvals or procedural requirements, including the provisions of Section 11-35-10, may be imposed on the acceptance of such gifts.

HISTORY: 1993 Act No. 178, ' 6, eff July 1, 1993.

South Carolina Consolidated Procurement Code, Title 11, Chapter 35:

' 11-35-40. Application of this Code.

(4) The acquisition of any facility or capital improvement by a foundation or eleemosynary organization on behalf of or for the use of any state agency or institution of higher learning which involves the use of public funds in the acquisition, financing, construction, or current or subsequent leasing of the facility or capital improvement is subject to the provisions of this Code in the same manner as any governmental body. The definition and application of the terms "acquisition," "financing," "construction," and "leasing" are governed by standards and principles established by the State Auditor.

' 11-27-110. Lease purchase or financing agreement subject to constitutional debt limit.

(A) As used in this section:

(1) "asset" means any real property and permanent improvements thereon including structures, buildings, and fixtures;

(2) "bond act" means:

(a) the county bond act, as contained in Chapter 15 of Title 4;

(b) the municipal bond act, as contained Article 1, Chapter 71 of Title 59;

(d) the provisions contained in Articles 3 and 5 of Chapter 11 of Title 6 pertaining to special purpose districts;

(e) any provision of law by which the State may issue obligations secured in whole or in part by the full faith, credit, and taxing power of the State; and

(f) any other law, general or special, providing for the issuance of general obligation bonds by the State or any of its political subdivisions;

(3) "constitutional debt limit" for the State or any political subdivision of the State which has the power to incur general obligation bonded indebtedness, means the limitation of the principal amount of general obligation bonded indebtedness specified in Article X of the Constitution;

(4) "enterprise charge" means a local accommodations tax or a local hospitality tax, or both of them, imposed by one or more governmental entities, the proceeds from which may be used only for limited purposes which either (I) has been imposed within the two fiscal years prior to the date of an enterprise financing agreement, or (ii) to the extent a governmental entity pledges such a charge in connection with an enterprise financing agreement, the governmental entity covenants and agrees not to increase disbursements from its general fund to pay for costs which could have been paid from the charge for a period of two fiscal years after the date of the acquisition or completion of the asset provided by the enterprise financing agreement;

(5) "enterprise financing agreement" means a financing agreement entered into to provide an asset for a governmental enterprise (I) the revenues from which are expected to be sufficient to pay the amounts due under the financing agreement, or (ii) for which an enterprise charge has been imposed in an amount expected to be sufficient to pay the amounts due under the financing agreements, or (iii) a combination of revenues described under (I) and (ii) are expected to produce an amount sufficient to pay the amounts due under the financing agreement;

(6) "financing agreement" means any contract entered into after December 31, 1995, under the terms of which a governmental entity acquires the use of an asset, which provides:

(a) for payments to be made in more than one fiscal year, whether by the stated term of the contract or under any renewal provisions, optional or otherwise;

(b) that the payments thereunder are divided into principal and interest components or which contain any reference to any portion of any payment under the agreement being treated as interest; and

(c) that the title to the asset will be in the name of or be transferred to the governmental entity if all payments scheduled or provided for in the financing agreement are made, but the term excludes any refinancing agreement and contracts entered into in connection with issues of general obligation bonds or revenue bonds issued pursuant to authorization provided in Article X of the Constitution;

(7) "governmental enterprise" means any activity undertaken by a governmental entity which either (i) derives revenues from or because of an activity on a basis other than the exercise of the power of taxation by that governmental entity, or (ii) is entitled to be paid or supported from an enterprise charge;

(8) "governmental entity" means:

(a) the State, whose general obligation debt service payments are limited pursuant to Section 13, Article X of the Constitution; or

(b) any political subdivision of the State including a municipality, county, school district, special purpose district, or similar entity, whose general obligation debt is limited as provided in Sections 14 and 15, in Article X of the Constitution;

(9) "limited bonded indebtedness" means the amount of bonded indebtedness that may be incurred by a governmental entity without a referendum or, where the context requires, the amount of such indebtedness then outstanding;

(10) "principal balance" means the total amount, excluding any amount characterized as interest, payable as of any time of consideration under any financing agreement, including any renewals or extensions of the agreement; and

(11) "refinancing agreement" means an agreement or agreements that would be a financing agreement except that (I) it refinances and asset acquired under the terms of a contract or contracts that is not a financing agreement solely by virtue of being dated prior to January 1, 1996, and (ii) the sum of all payments to be made under such agreement is less than the sum of the payments under the contract or contracts it refinances.

(B) A governmental entity described in subsection (A)(7)(b) of this section may not enter into a financing agreement, other than an enterprise financing agreement. a lease purchase agreement for energy efficiency products as provided for in Section 48-52-660, or a guaranteed energy savings contract as provided for in Section 48-52-670, if the principal balance of the financing agreement, when added to the principal amount of limited bonded indebtedness outstanding on the date of execution of the financing agreement exceeds eight percent of the assessed value of taxable property in the jurisdiction of the governmental entity unless the

financing agreement is approved by a majority of the electors voting on the agreement in a referendum duly called for this purpose by the governmental entity.

(C) If a governmental entity described in subsection (A)(7)(b) of this section has outstanding any financing agreement, other than an enterprise financing agreement, other than an enterprise financing agreement on the date of issuance of any limited bonded indebtedness pursuant to any bond act, the amount of this limited bonded indebtedness plus the amount of all principal balance under any financing agreement or agreements of the governmental entity must not exceed the amount of the governmental entity's constitutional debt limit unless this bonded indebtedness is approved by a majority of the electors voting on the bonded indebtedness in a referendum duly called for this purpose by the governmental entity. This requirement applies notwithstanding any other provision of any bond act and is in addition to the terms and conditions specified in any bond act.

(D) A payment made by the State pursuant to a financing agreement is deemed general obligation debt service subject to the debt service limitation provided in Section 13, Article X of the Constitution.

HISTORY: Added by 1995 Act No. 55, '1, eff June 7, 1995. Amended by 1997 Act No. 106, 'eff June 13, 1997.

Effect of Amendment-

The 1997 amendment, in subsection (A), inserted paragraph (4) and redesignated former paragraphs (4) to (9) as paragraphs (5) to (10); in subsection (A)(5), inserted the clause (I) designation and added clauses (ii) and (iii); in subsection (A)(5)(c), inserted "refinancing agreement" and in subsection (AP(7), inserted "either" (I) and added clause (ii); added subsection (A)(11); and made other nonsubstantive changes.

' 11-35-1570. Emergency procurements.

Notwithstanding any other provision of this code, the chief procurement officer, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurements only when there exists an immediate threat to public health, welfare, critical economy an efficiency, or safety under emergency conditions as defined in regulations promulgated by the board; and *provided*, that such emergency procurements shall be made with as much competition as is practicable under the circumstances. A Written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

HISTORY: 1981 Act No. 148, '1.

Cross References-

As to application of this section to vesting of central materials management authority in Division of General Services, see ' 11-35-510.

As to provisions of this section constituting exception to requirements governing competitive sealed bidding in '11-35-1520, see '11-35-1510.

As to finality of determinations made pursuant to this section, se '11-35-2410.
As to governmental body submitting to chief procurement officers quarterly records of contracts made under this section, se '11-35-2440.

As to specification requirements for supplies, services and construction items procured under this section, see '11-35-2720.

As to application of this section to awards of state construction contracts, see '11-35-3020.
Research and Practice References-

64-Am Jur 2d, Public Works and Contracts '39.

'11-35-1590. Leasing of real property for governmental bodies.

(1) Designation of Board as Single Central Broker. The Board is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this Section.

(2) Notification as to Need When State-Owned Property is Unavailable. When any governmental body needs to acquire real property for its operations or any part thereof and the state-owned property is not available, it shall notify the Division of General Services of its requirement on rental request forms prepared by the division. Such forms shall indicate the amount and location of space desired, the purpose for which it shall be used, the proposed date of occupancy and such other information as the division may require.
Upon receipt of any such request, the division shall conduct and investigation of available rental space which would adequately meet the governmental body's requirements, including specific locations which may be suggested and preferred by the governmental body concerned. When suitable space has been located which governmental body and the division agree meets necessary requirements and standards for state leasing as prescribed in regulations of the board as provided for in subsection (3) of this Section, the division shall give its written approval to the governmental body to enter into a lease agreement. In the event the governmental body and the division fail to reach agreement with regard to the appropriate

property for leasing, the controversy shall be referred to the board which shall make a final determination of the matter. All proposed lease renewals shall be submitted to the division by the time specified by the division.

(3) Promulgation of Regulations. The board shall promulgate regulations to implement the provisions of this Section which shall include:

(a) Procedures for governmental bodies to apply for rental space.

(b) Flexible cost standards for rental space.

(c) Procedures for competitive bidding where feasible.

HISTORY: 1981 Act No. 148, '1.
Energy Efficiency, Title 48, Chapter 52

'48-52-660. Lease purchase or financing agreements with energy efficiency products, vendors and utility companies; procurements for energy-using goods and facilities.

(A) A state agency may enter into a lease purchase agreement for a duration of more than one year with vendors of energy efficiency products and utility companies. No funds disclaimer clause as provided for in Section 11-35-2030 is required in these contracts. Repayment is allowed from savings on the agency utility budget. .

(B) Procurements under the South Carolina Consolidated Procurement Code for energy-using goods and facilities must be procured through competitive sealed proposals pursuant to Section 11-35-1530 with life cycle cost criteria stated as an evaluation factor that must be addressed in a proposal.

History: 1992 Act No. 449, Part II '1, eff July 1, 1992.

'48-52-670. Guaranteed energy savings contracts.

(A) A governmental unit may enter into guaranteed energy savings contracts for a duration of more than one year with vendors of guaranteed energy savings programs. No funds disclaimer clause as provided for in Section 11-35-2030 is required in these contracts. Repayment may be made from savings on the agency utility budget.

(B) A guaranteed energy savings contract may be awarded pursuant to Section 11-35-1530 if it includes a written guarantee that savings will meet or exceed the cost of energy conservation measures.

(C) For purposes of this section, "governmental unit" unit means a state government agency, department, institution, college university, technical school, legislative body, or other establishment or official of the executive, judicial, or legislative branches of this State authorized by law to enter into contracts, including all local political subdivisions, including, but not limited to, counties, municipalities, public school districts, or public service or special purpose districts.

(D) For purposes of this section, "guaranteed energy savings contract" means a contract for the evaluation and recommendation of energy conservation measures and for implementation of one or more of these measures. The contract must provide that all payments, except obligations on termination of the contract before its expiration, must be made over time and the energy cost savings resulting from implementation of the energy conservation measures may be used to make payments for the energy conservation systems installed pursuant to guaranteed energy savings contracts.

(E) For purposes of this section "energy conservation measure" means a training program or facility alteration designed to reduce energy consumption or operating costs, including, but not limited to:

(1) insulation of the building structure or systems within the building;

(2) storm windows or doors, caulking or weatherstripping, multi glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(3) automated or computerized energy control systems;

(4) heating, ventilating, or air conditioning system modifications or replacements;

(5) replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the

applicable state or local building code for the lighting system after the proposed modifications are made;

(6) energy recovery systems;

(7) cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(8) energy conservation measures that provide long-term operating cost reductions.

History: 1992 Act No. 449, Part II ' 1, eff July 1, 1992.